

1 AMENDMENT TO HOUSE BILL 273

2 AMENDMENT NO. _____. Amend House Bill 273 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Fire Sprinkler Contractor Licensing Act.

6 Section 5. Legislative intent. It is declared that
7 within the State of Illinois there are, and may continue to
8 be, locations where the improper installation or repair of
9 fire sprinkler systems creates conditions that may adversely
10 affect the public health and general welfare. Therefore, the
11 purpose of this Act is to protect, promote, and preserve the
12 public health and general welfare by providing for the
13 establishment of minimum standards for licensure of fire
14 sprinkler installation contractors.

15 Section 10. Definitions. As used in this Act, unless the
16 context otherwise requires:

17 "Designated certified person" means an individual who has
18 met the qualifications set forth under Section 20 of this
19 Act.

20 "Fire sprinkler contractor" means a person who holds
21 himself or herself out to be in the business of or contracts

1 with a person to install or repair a fire sprinkler system.

2 "Fire sprinkler system" means any water-based automatic
3 fire extinguishing system employing fire sprinklers,
4 including accessory fire pumps and associated piping, fire
5 standpipes, or underground fire main systems starting at the
6 point of service as defined herein and ending at the most
7 remote fire sprinkler. "Fire sprinkler system" includes but
8 is not limited to a fire sprinkler system in a residential,
9 commercial, institutional, educational, public, or private
10 occupancy.

11 "Licensee" means a person or business organization
12 licensed in accordance with this Act.

13 "NICET" means the National Institute for Certification in
14 Engineering Technologies.

15 "Person" means an individual, group of individuals,
16 association, trust, partnership, corporation, person doing
17 business under an assumed name, the State of Illinois, or
18 department thereof, any other state-owned and operated
19 institution, or any other entity.

20 "Point of service" means the point of connection to the
21 water service after the approved backflow device is installed
22 under the requirements of the Illinois Plumbing Code.

23 "Supervision" means the direction and management by a
24 designated certified person of the activities of
25 non-certified personnel in the installation or repair of fire
26 sprinkler systems.

27 Section 12. License; enforcement; failure to pay tax.
28 No person shall act as a fire sprinkler contractor, or
29 advertise or assume to act as such, or use any title implying
30 that such person is engaged in such practice or occupation
31 unless licensed by the State Fire Marshal.

32 No firm, association, or corporation shall act as an
33 agency licensed under this Act, or advertise or assume to act
34 as such, or use any title implying that the firm,

1 association, or corporation is engaged in such practice,
2 unless licensed by the State Fire Marshal.

3 The State Fire Marshal, in the name of the People and
4 through the Attorney General, the State's Attorney of any
5 county, any resident of the State, or any legal entity within
6 the State may apply for injunctive relief in any court to
7 enjoin any person who has not been issued a license or whose
8 license has been suspended, revoked, or not renewed from
9 practicing a licensed activity, and upon the filing of a
10 verified petition, the court, if satisfied by affidavit or
11 otherwise, that such person is or has been practicing in
12 violation of this Act may enter a temporary restraining order
13 or preliminary injunction, without bond, enjoining the
14 defendant from such further activity. A copy of the verified
15 complaint shall be served upon the defendant and the
16 proceedings shall thereafter be conducted as in other civil
17 cases. If it is established that the defendant has been or
18 is practicing in violation of this Act, the court may enter a
19 judgment perpetually enjoining the defendant from such
20 further activity. In case of violation of any injunctive
21 order or judgment entered under the provisions of this
22 Section, the court may summarily try and punish the offender
23 for contempt of court. Such injunctive proceeding shall be
24 in addition to all penalties and other remedies in this Act.

25 The State Fire Marshal may refuse to issue a license to,
26 or may suspend the license of, any person who fails to file a
27 return, to pay the tax, penalty, or interest shown in a filed
28 return, or to pay any final assessment of tax, penalty, or
29 interest, as required by any tax Act administered by the
30 Illinois Department of Revenue, until such time as the
31 requirements of any such tax Act are satisfied.

32 Section 15. Licensing requirements.

33 (a) It shall be unlawful for any person or business to

1 engage in, advertise, or hold itself out to be in the
2 business of installing or repairing fire sprinkler systems in
3 this State after 6 months after the effective date of this
4 Act, unless such person or business is licensed by the State
5 Fire Marshal. This license must be renewed every year.

6 (b) In order to obtain a license, a person or business
7 must submit an application to the State Fire Marshal, on a
8 form provided by the State Fire Marshal containing the
9 information prescribed, along with the application fee.

10 (c) A business applying for a license must have a
11 designated certified person employed at the business location
12 and the designated certified person shall be identified on
13 the license application.

14 (d) A person or business applying for a license must
15 show proof of having liability and property damage insurance
16 in such amounts and under such circumstances as may be
17 determined by the State Fire Marshal. The amount of
18 liability and property damage insurance, however, shall not
19 be less than the amount specified in Section 35 of this Act.

20 (e) A person or business applying for a license must
21 show proof of having workers' compensation insurance covering
22 its employees or be approved as a self-insurer of workers'
23 compensation in accordance with the laws of this State.

24 (f) A person or business applying for a license must
25 show proof of having an Illinois unemployment insurance
26 identification number or show proof of having applied for
27 such an identification number.

28 (g) A person or business so licensed shall have a
29 separate license for each business location within the State
30 or outside the State when the business location is
31 responsible for any installation or repair of fire sprinkler
32 systems performed within the State.

33 (h) When an individual proposes to do business in her or
34 his own name, a license, when granted, shall be issued only

1 to that individual.

2 (i) If the applicant requesting licensure to engage in
3 contracting is a business organization, such as a
4 partnership, corporation, business trust, or other legal
5 entity, the application shall state the name of the
6 partnership and its partners, the name of the corporation and
7 its officers and directors, the name of the business trust
8 and its trustees, or the name of such other legal entity and
9 its members and shall furnish evidence of statutory
10 compliance if a fictitious name is used. Such application
11 shall also show that the business entity employs a designated
12 certified person as required under Section 20. The license,
13 when issued upon application of a business organization,
14 shall be in the name of the business organization and the
15 name of the qualifying designated certified person shall be
16 noted thereon.

17 Section 20. Designated certified person requirements.

18 (a) A designated certified person must either be a
19 current Illinois licensed professional engineer or hold a
20 valid NICET level 3 or higher certification in "fire
21 protection technology, automatic sprinkler system layout".
22 The designated certified person for a person or business
23 installing fire sprinkler systems in one or 2 family
24 dwellings shall hold a valid NICET level 2 or higher
25 certification.

26 (b) At least one member of every firm, association, or
27 partnership and at least one corporate officer of every
28 corporation engaged in the installation and repair of fire
29 sprinkler systems must be a designated certified person.

30 (c) A designated certified person must be employed by
31 the licensee at a business location with a valid license.

32 (d) A designated certified person must perform his or
33 her normal duties at a business location with a valid

1 license.

2 (e) A designated certified person may only be the
3 designated certified person for one business location and one
4 business entity.

5 (f) A designated certified person must be directly
6 involved in supervision. The designated certified person
7 does not, however, have to be at the site of the installation
8 or repair of the fire sprinkler system at all times.

9 Section 25. Change of a designated certified person.
10 When a licensee is without a designated certified person, the
11 licensee shall notify the State Fire Marshal in writing
12 within 30 days and shall employ a designated certified person
13 no later than 180 days from the time the position of
14 designated certified person becomes vacant. Failing to fill
15 the vacant position shall cause the license of the person or
16 of the business organization to expire without further
17 operation of law.

18 Section 30. Requirements for the installation and repair
19 of fire protection systems.

20 (a) Equipment shall be listed by a nationally recognized
21 testing laboratory, such as Underwriters Laboratories, Inc.
22 or Factory Mutual Laboratories, Inc., or shall comply with
23 nationally accepted standards. The State Fire Marshal shall
24 adopt by rule procedures for determining whether a laboratory
25 is nationally recognized, taking into account the
26 laboratory's facilities, procedures, use of nationally
27 recognized standards, and any other criteria reasonably
28 calculated to reach an informed determination.

29 (b) Equipment shall be installed in accordance with the
30 applicable standards of the National Fire Protection
31 Association and the manufacturer's specifications.

32 (c) Each piece of equipment supplied shall be guaranteed

1 for a period of one year against defects in material or
2 operations.

3 (d) The contractor shall furnish the user with operating
4 instructions for all equipment installed, together with a
5 diagram of the final installation.

6 (e) All fire sprinkler systems shall have a backflow
7 prevention device installed by a licensed plumber before the
8 point of service.

9 Section 35. Fees and required insurance.

10 (a) The fees for an original license and each renewal
11 and for duplicate copies of licenses shall be determined by
12 the State Fire Marshal by rule.

13 (b) Any person who fails to file a renewal application
14 by the date of expiration of a license shall be assessed a
15 late filing charge, which shall be determined by the State
16 Fire Marshal by rule.

17 (c) All fees shall be paid by check or money order. Any
18 fee required by this Act is not refundable in the event that
19 the original application or application for renewal is
20 denied.

21 (d) Every application for an original license shall be
22 accompanied by a certificate of insurance issued by an
23 insurance company authorized to do business in the State of
24 Illinois or by a risk retention or purchasing group formed
25 pursuant to the federal Liability Risk Retention Act of 1986,
26 which provides primary, first dollar public liability
27 coverage of the applicant or licensee for personal injuries
28 for not less than \$500,000 per person or \$1,000,000 per
29 occurrence, and, in addition, for not less than \$1,000,000
30 per occurrence for property damage. The insurance policy
31 shall be in effect at all times during the license year and a
32 new certificate of insurance shall be filed with the State
33 Fire Marshal within 30 days after the renewal of the

1 insurance policy.

2 Section 40. Deposit of fines and fees; appropriation.
3 All administrative civil fines and fees collected pursuant to
4 the Act shall be deposited into the Fire Prevention Fund, a
5 special fund in the State treasury. The General Assembly
6 shall appropriate the amount annually collected as
7 administrative civil fines and fees to the State Fire Marshal
8 for the purposes of administering this Act.

9 Section 45. Home rule. A home rule unit may not
10 regulate the installation and repair of fire sprinkler
11 systems in a manner less restrictive than the regulation by
12 the State on the installation and repair of fire sprinkler
13 systems under this Act. This Section is a limitation under
14 subsection (i) of Section 6 of Article VII of the Illinois
15 Constitution on the concurrent exercise by home rule units of
16 powers and functions exercised by the State.

17 Section 50. Powers and duties of the State Fire Marshal.
18 The State Fire Marshal has all of the following powers and
19 duties:

20 (a) To prescribe and furnish application forms,
21 licenses, and any other forms necessary under this Act.

22 (b) To suspend, revoke, or refuse to issue or renew
23 licenses for cause.

24 (c) To conduct hearings concerning the suspension,
25 revocation, or refusal to issue or renew licenses.

26 (d) To levy and collect fines pursuant to this Act.

27 (e) To promulgate rules and regulations necessary for
28 the administration of this Act.

29 Section 55. Rules; public hearing. Subject to the
30 requirement for public hearings as provided in this Section,

1 the State Fire Marshal shall promulgate, publish, and adopt,
2 and may, from time to time, amend such rules as may be
3 necessary for the proper enforcement of this Act, to protect
4 the health and safety of the public. The State Fire Marshal
5 shall hold a public hearing prior to the adoption or
6 amendment of rules required under this Act. The State Fire
7 Marshal may, when necessary, utilize the services of any
8 other State agency to assist in carrying out the purposes of
9 this Act.

10 Section 60. Grounds for disciplinary action. The
11 following constitute grounds for disciplinary action by the
12 State Fire Marshal:

13 (1) Violation of any provision of this Act or of any
14 rule adopted pursuant thereto.

15 (2) Violation of the applicable building codes or laws
16 of this State or any municipality or county thereof.

17 (3) Diversion of funds or property received for
18 prosecution or completion of a specified construction project
19 or operation when, as a result of the diversion, the
20 contractor is, or will be, unable to fulfill the terms of her
21 or his obligation or contract.

22 (4) Disciplinary action by any municipality or county,
23 which action shall be reviewed by the State Fire Marshal
24 before taking any disciplinary action.

25 (5) Failure to supervise the installation of the fire
26 protection system covered by the installation permit signed
27 by the contractor.

28 (6) Rendering a fire protection system, standpipe
29 system, or underground water supply main connecting to the
30 system inoperative except when the fire protection system,
31 standpipe system, or underground water supply main is being
32 inspected, serviced, tested, or repaired or pursuant to court
33 order.

1 (7) Improperly servicing, repairing, testing, or
2 inspecting a fire protection system, standpipe system, or
3 underground water supply main connecting to the system.

4 (8) Failing to provide proof of insurance to the State
5 Fire Marshal or failing to maintain in force the insurance
6 coverage required by this Act.

7 (9) Failing to obtain, retain, or maintain one or more
8 of the qualifications for a designated certified person as
9 specified in this Act.

10 (10) Making a material misstatement or misrepresentation
11 or committing a fraud in obtaining or attempting to obtain a
12 license.

13 (11) Failing to notify the State Fire Marshal, in
14 writing, within 30 days after a change of residence address,
15 principal business address, or name.

16 (12) Failure to supply within a reasonable time, upon
17 request from the State Fire Marshal or its authorized
18 representative, true information regarding material used,
19 work performed, or other information essential to the
20 administration of this Act.

21 (13) Aiding or abetting a person to violate a provision
22 of this Act, conspiring with any person to violate a
23 provision of this Act, or allowing a license to be used by
24 another person.

25 Section 65. Notice; suspension, revocation, or refusal
26 to renew a license.

27 (a) Whenever the State Fire Marshal determines that
28 there are reasonable grounds to believe that a licensee has
29 violated a provision of this Act or the rules adopted under
30 this Act, the State Fire Marshal shall give notice of the
31 alleged violation to the person whom the license was issued.
32 The notice shall (i) be in writing; (ii) include a
33 statement of the alleged violation which necessitates

1 issuance of the notice; (iii) contain an outline of remedial
2 action that, if taken, will effect compliance with the
3 provisions of this Act and the rules adopted under this Act;
4 (iv) prescribe a reasonable time, as determined by the State
5 Fire Marshal, for the performance of any action required by
6 the notice; and (iv) be served upon the licensee. The
7 notice shall be deemed to have been properly served upon the
8 person when a copy of the notice has been sent by registered
9 or certified mail to his or her last known address as
10 furnished to the State Fire Marshal or when he or she has
11 been served the notice by any other method authorized by law.

12 (b) If the person to whom the notice is served does not
13 comply with the terms of the notice within the time
14 limitations specified in the notice, the State Fire Marshal
15 may proceed with action to suspend, revoke, or refuse to
16 issue a license as provided in this Section.

17 (c) Other requirements of this Act notwithstanding, when
18 the State Fire Marshal determines that reasonable grounds
19 exist to indicate that a violation of this Act has been
20 committed and the violation is the third separate violation
21 by that person in an 18-month period, the notice requirement
22 of subsection (a) of this Section is waived and the State
23 Fire Marshal may proceed immediately with action to suspend,
24 revoke, or refuse to issue a license.

25 (d) In any proceeding to suspend, revoke, or refuse to
26 issue a license, the State Fire Marshal shall first serve or
27 cause to be served upon the licensee a written notice of the
28 State Fire Marshal's intent to take action. The notice shall
29 specify the way in which the person has failed to comply with
30 this Act or any other rules or standards of the State Fire
31 Marshal.

32 (e) In the case of revocation or suspension, the notice
33 shall require the person to remove or abate the violation or
34 objectionable condition specified in the notice within 5

1 days. The State Fire Marshal may specify a longer period of
2 time as it deems necessary. If the person fails to comply
3 with the terms and conditions of the revocation or suspension
4 notice within the time specified by the State Fire Marshal,
5 the State Fire Marshal may revoke or suspend the license.

6 (f) In the case of refusal to issue a license, if the
7 person fails to comply with the Act or rules or standards
8 promulgated under the Act, the State Fire Marshal may refuse
9 to issue a license.

10 Section 70. Administrative hearing. The State Fire
11 Marshal shall give written notice by certified or registered
12 mail to an applicant or licensee of the State Fire Marshal's
13 intent to suspend, revoke, or refuse to issue a license or to
14 assess a fine. Such person has a right to a hearing before
15 the State Fire Marshal. A written notice of a request for a
16 hearing shall be served on the State Fire Marshal within 10
17 days of notice of the refusal, suspension, or revocation of a
18 license or imposition of a fine. The hearing shall be
19 conducted by the State Fire Marshal or a hearing officer
20 designated in writing by the State Fire Marshal. A
21 stenographic record shall be made of the hearing and the cost
22 of the hearing shall be borne by the State Fire Marshal. A
23 transcript of the hearing shall be made only upon request of
24 the applicant or licensee and shall be transcribed at the
25 cost of that person.

26 Section 75. Subpoena powers; administration of oath. The
27 State Fire Marshal or hearing officer may compel by subpoena
28 or subpoena duces tecum the attendance and testimony of
29 witnesses and the production of books and papers. All
30 subpoenas issued by the State Fire Marshal or hearing officer
31 may be served as provided for in a civil action. The fees of
32 witnesses for attendance and travel shall be the same as the

1 fees for witnesses before the circuit court and shall be paid
2 by the party at whose request the subpoena is issued. If such
3 subpoena is issued at the request of the State Fire Marshal,
4 the witness fee shall be paid as an administrative expense.

5 In the case of refusal of a witness to attend or testify
6 or to produce books or papers concerning any matter upon
7 which he or she might be lawfully examined, the circuit court
8 of the county where the hearing is held, upon application of
9 any party to the proceeding, may compel obedience by a
10 proceeding for contempt.

11 The State Fire Marshal or hearing officer has the
12 authority to administer oaths to witnesses.

13 Section 80. Deposition of witnesses; testimony at hearing
14 recorded. In the event of the inability of any party or the
15 State Fire Marshal to procure the attendance of witnesses to
16 give testimony or produce books and papers, the party or the
17 State Fire Marshal may take the deposition of witnesses in
18 accordance with the laws of this State. All testimony taken
19 at a hearing shall be reduced to writing and all such
20 testimony and other evidence introduced at the hearing shall
21 be a part of the record of the hearing.

22 Section 85. Certification of record. The State Fire
23 Marshal is not required to certify any record or file any
24 answer or otherwise appear in any proceeding for judicial
25 review unless the party filing the complaint deposits with
26 the clerk of the court the sum of one dollar per page
27 representing the costs of the certification. Failure on the
28 part of the plaintiff to make the deposit shall be grounds
29 for dismissal of the action.

30 Section 90. Injunction. Faulty fire sprinkler
31 installation and repair is declared a violation of this Act

1 and inimical to the public health, welfare, and safety and a
2 deceptive business practice. The State Fire Marshal, in the
3 name of the people of the State, through the Attorney General
4 or the State's Attorney of the county in which the violation
5 occurs may, in addition to other remedies herein provided,
6 bring an action for an injunction to restrain such violation
7 or enjoin the future performance of the person who committed
8 the violation until compliance with the provisions of this
9 Act has been obtained.

10 Section 95. Penalty. Any person who violates this Act or
11 any rule adopted by the State Fire Marshal, or who violates
12 any determination or order of the State Fire Marshal under
13 this Act shall be guilty of a Class A misdemeanor and shall
14 be fined a sum not less than \$100.

15 Each day's violation constitutes a separate offense. The
16 State's Attorney of the county in which the violation
17 occurred or the Attorney General shall bring such actions in
18 the name of the people of the State of Illinois.

19 Section 100. Administrative civil fines. The State Fire
20 Marshal is empowered to assess administrative civil fines
21 against a licensee for violations of this Act or its rules.
22 These fines shall not be greater than \$1,000 for each
23 offense. These fines shall be in addition to, or in lieu of,
24 license suspensions and revocations. Rules to implement this
25 Section shall be adopted by the State Fire Marshal within 6
26 months after the effective date of this Act.

27 The hearing officer shall, upon determination that a
28 violation of the Act or rules has occurred, determine the
29 amount of these fines. Any fine assessed and not paid within
30 60 days after receiving notice of the fine from the State
31 Fire Marshal may be submitted to the Attorney General's
32 office for collection. Failure to pay a fine shall also be

1 grounds for immediate suspension or revocation of a license
2 issued under this Act.

3 Section 105. Judicial review of final administrative
4 decision. The Administrative Review Law and the rules adopted
5 under the Administrative Review Law apply to and govern all
6 proceedings for judicial review of final administrative
7 decisions of the State Fire Marshal under this Act. Such
8 judicial review shall be had in the circuit court of the
9 county in which the cause of the action arose. The term
10 "administrative decision" is defined in Section 3-101 of the
11 Code of Civil Procedure.

12 Section 110. Illinois Administrative Procedure Act. The
13 provisions of the Illinois Administrative Procedure Act are
14 hereby expressly adopted and shall apply to all
15 administrative rules and procedures of the State Fire Marshal
16 under this Act, except that, in the case of conflict between
17 the Illinois Administrative Procedure Act and this Act, the
18 provisions of this Act shall control, and except that Section
19 5-35 of the Illinois Administrative Procedure Act relating to
20 procedures for rule-making does not apply to the adoption of
21 any rule required by federal law in connection with which the
22 State Fire Marshal is precluded by law from exercising any
23 discretion.

24 Section 115. Severability clause. If any part of this
25 Act is adjudged invalid, such adjudication shall not affect
26 the validity of the Act as whole or of any other part.

27 Section 120. Grandfather clause. Any fire sprinkler
28 contractor who, as of the effective date of this Act, is
29 installing or repairing fire sprinkler systems in the State
30 of Illinois and has a minimum of 3 years of experience in

1 fire sprinkler contracting is exempt from having a designated
2 certified person as required in Section 20. If that fire
3 sprinkler contracting business changes ownership, however,
4 the designated certified person exemption is no longer valid.

5 Section 999. Effective date. This Act takes effect upon
6 becoming law.".